



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1993

Ms. Myra C. Schexnayder
Feldman & Associates
12 Greenway Plaza, Suite 1202
Houston, Texas 77046

OR93-581

Dear Ms. Schexnayder:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.).¹ Your request was assigned ID# 21586.

The Klein Independent School District (KISD), which you represent, has received a request for information relating to disciplinary records of a particular child by the child's parent. Specifically the requestor seeks:

- 1) A two page letter written by Travis as a response to the four (4) page letter dated May 9th I wrote to Larry Whitehead.
- 2) A discipline book/record which was established by Danielle Travis during May, 1993 that was allegedly signed . . . three (3) times. . . .
- 3) The booklet/record . . . which Travis brought to a conference in Larry Whitehead's office on May 17, 1993.
- 4) Any other records/notations which chronicle acts of misbehavior by Crystal while a student in Ms. Travis choir class.

¹We note that V.T.C.S. article 6252-17a was repealed by the 73d Legislature. Acts 1993, 73d Leg. ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

You contend that the information is excepted from disclosure by sections 552.111, 552.114, and 552.026 (formerly sections 3(a)(11), 3(a)(14) and 14(e)) of the act. We address your arguments in turn.

Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the section 552.111 exception in light of the decision in *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ) and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5-6. As the requested information relates to a personnel matter, *i.e.*, a complaint about a teacher's disciplinary methods, we conclude that section 552.111 does not except it from required public disclosure.

You also contend that section 552.114 exempts some of the information from disclosure. Section 552.114 excepts "information in a student record at an educational institution funded wholly or partly by state revenue." Section 552.026 incorporates the federal Family Educational Rights and Privacy Act of 1974 ("FERPA") into the Open Records Act, providing:

This chapter does not require the release of information contained in education records of an educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, Sec. 512, Pub. L. No. 93-380, 20 U.S.C. Sec.1232g.

FERPA provides in part:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information . . .) of students without the written consent of their parents to any individual, agency, or organization.

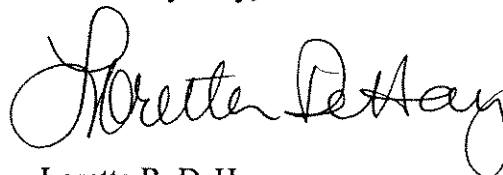
20 U.S.C. §§ 1232g(a)(1)(A), 1232g(b)(1). "Education records" are defined in FERPA as records that:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

Id. § 1232g(a)(4)(A). Therefore, FERPA specifically gives a parent the right to inspect the education records of their child only. The school district must delete information to the extent that it personally identifies an other student or one or both parents of such a student. Open Records Decision No. 332 (1982) at 3. Thus, only information identifying or tending to identify other students or their parents must be withheld from required public disclosure, unless you receive written authorization from the students if they are over the age of 18, or their legal guardians to release the information. *See* 20 U.S.C. § 1232g(b)(1). We note that several of the documents contain information which would tend to identify other students. We have marked the portions of the documents that must be withheld under sections 552.114 and 552.026 unless the school district has written authorization to release such information. However, the remainder of the information must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

Ref.: ID# 21586

Enclosures: Marked documents

cc: Mr. Robert E. Lett
17202 Shadow Valley Drive
Spring, Texas 77379
(w/o enclosures)